Province of British Columbia
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Electronic Monitoring System
for Offender Supervision

discussion paper

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- Discussion Paper -

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DISCUSSION PAPER

The B.C. Corrections Branch is proposing to establish a project to test the feasibility of electronic surveillance technology as an alternative to imprisonment. This paper is an overview of the proposal and contains project objectives, a description of the technology in question, a review of the use of this technology in the U.S. and details of a potential field-test for assessing the utility of this equipment in the Corrections Branch. In addition, the paper will consider some underlying issues attendent upon this proposal.

Definition

A number of terms have been used almost interchangeably to describe the technology in question. "Electronic Monitoring Devices" (EMD), "Electronic Surveillance" (ES) and "Home Arrest" are all terms used in connection with this technology in various jurisdictions. The Corrections Branch has been using the term "Electronic Monitoring System" (EMS). For continuity this paper will refer to EMS to represent both the technology and the proposal to test it.

An Electronic Monitoring System serves a two-fold purpose: it provides an alternative to institutional incarceration, and confines an offender to a

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specific site (most commonly their places of residence) during specified hours. Typically, offenders on such a program are required to be in their residences during the evening hours and on weekends.

The technological components of EMS include...

a) A computer to run the monitoring system.

b) A receiver in the offender's place of residence (or other designated place of confinement) which receives and records the signals sent by a transmitting device worn by the offender.

The receiver plugs into the home telephone wall socket and draws its power from a regular household wall socket. The receiver communicates with the computer via a standard telephone line.

c) A transmitter which is affixed to the offender by a strap and is worn most commonly as a bracelet on the wrist or ankle. The transmitter is about the size of a cigarette package, battery operated and equipped with a tamper alarm (or requires periodic viewing to ensure that the "unbreakable" strap is intact).

d) Software is the computer program which runs the entire system.

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The purpose of the technology, taken collectively, is to monitor the offender's compliance with the requirement to remain at a specific place during specified hours. If an offender goes beyond the maximum radius permitted, which is typically 150 feet, the computer will record this violation and advise the person monitoring the computer.

There are a variety of options available in response to an apparent violation. A simple telephone call to the offender's residence is generally the first step taken by the monitor. In some jurisdictions police officers may attend at the site where the offender is required to remain. If it is confirmed that the offender has actually left the site, the police can launch an investigation immediately. In other jurisdictions, "surveillance officers" are deployed immediately to attend at the site of the apparent violation.

The capacity - and the necessity - to respond immediately at any hour of the day or night will vary depending on several criteria. Is the program operated by an agency with a mobile response capacity around the clock? Does the offender present the type of risk that necessitates a physical response to an apparent violation? Later in this paper a strategy for response to apparent violations will be proposed.

In sum, the technology simply monitors an offender's compliance with conditions which restrict his or her movement. Even with EMS, Corrections Branch staff will still have a significant amount of personal interaction

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with offenders. In spite of the electronic basis of the program, this is not a "depersonalized" approach to offender management.

The U.S. Experience

The EMS phenomenon has developed quite suddenly in the U.S. At the moment, there are 44 of these programs operating in 20 American states, with new programs established every month. Several state-wide systems including Michigan, Delaware and Utah are reported to be experimenting with the technology. Far more common is county-level activity. For instance at least three counties in Oregon are either in the initial stage of testing the technology or have operationalized fully ongoing programs. Of these, Clackamus County (suburban Portland) is often cited in the literature as the best planned and operated EMS program extant.

The sudden appearance of this technology is based directly upon prison overcrowding. Many U.S. systems are reported to be well beyond capacity, with populations continuing to grow. At the same time litigants regularly attack these overcrowded systems in the courts, suing for more humane conditions. American legislatures are reticent about continuing to fund capital-intensive projects. Traditional alternatives to prison such as probation and parole have been under attack as inadequate responses to the problem of crime. This combination of factors adds urgency to the American search for additional cost-effective alternatives to imprisonment.

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In spite of the wide number of jurisdictions using EMS, none have been using the equipment for long enough or with sufficiently large numbers of offenders to allow researchers to draw significant conclusions about its efficacy. The results to date do, however, indicate an extremely high compliance rate, with violation rates consistently reported as less than 2%. Commonly EMS is used by courts (as distinct from the approach which will be suggested below) and is used in conjunction with probation to divert offenders who would otherwise be incarcerated. The concensus in the U.S. is that EMS can forestall the building of new institutional space. However, its ability to enable the closing of existing space is doubted by American jurisdictions. This may be a reflection of a pattern of use that sees EMS used most commonly in seriously overcrowded jurisdictions. U.S. users agree that EMS is not a panacea, but rather a useful additional tool for carrying out their responsibilities.

Potential for Use in B.C.

The Corrections Branch has proposed that EMS be implemented for a trial period with a group of non-violent offenders who would otherwise be incarcerated.

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The specific objectives of this pilot project would be:

a) to test Electronic Monitoring Systems as a means of safely supervising a portion of the current prison population in the community;

b) to establish a viable sanction to serve as an alternative to conventional imprisonment;

c) to establish one strategy by which to forestall and possibly avoid some of the capital costs of housing offenders who will be displaced with the phasing-out of the Lower Mainland Regional Correctional Centre.

d) to become familiar with the technology and to determine the incidence, if any, of technical problems including means of responding to problems quickly and efficiently;

e) to observe and report on the effects of the technology upon offender behaviour;

f) to determine effective and efficient staffing patterns for wider implementation of EMS;

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g) to identify suitable categories of offenders to which the technology may be applied;

h) to provide information regarding EMS to the Corrections Branch, the balance of the Criminal Justice System and the general community; and

i) to assess the extent of receptiveness and support for EMS throughout the Corrections Branch, in the balance of the Criminal Justice System and the general community.

A Brief Overview

The Corrections Branch proposes to lease and install equipment and to assign staff for a time-limited test of this technology. Two target groups of offenders are proposed as participants in the field test.

a) Intermittent Sentences

For some years now, Canadian courts have had the option to direct that sentences of 90 days or less be served in an intermittent fashion. Such sentences are commonly made in order to allow offenders to keep their jobs and provide for their families. Typically they remain in the community 5 out of every 7 days. An intermittent sentence is usually the result of a judge being satisfied that an offender does not present a threat to the

community and that a conventional, non-intermittent sentence would have an unwarranted detrimental effect upon an offender's rehabilitation and future prospects.

This intermittent population has, in recent years, grown significantly. While this population is growing, the Corrections Branch faces the loss of the flexible capacity at Lower Mainland Regional Correctional Centre (Oakalla) early in the next decade. In the face of increasing demand for bed-space, it is timely to seek alternatives for managing this large and generally non-dangerous population.

The primary target group for the field test will be the intermittent sentence population. Offenders who are currently subject to intermittent sentences will, with the co-operation of the Courts, be sentenced to conventional "straight time" sentences. The Courts will be invited to identify potential participants by calling for a pre-sentence investigation and assessment of a candidate's suitability for the program. Those offenders who meet the criteria for program participation will be granted a Temporary Absence shortly after admission. They will be equipped with transmitters, receivers will be installed in their homes and they will be required to observe restrictions laid out in their T.A. permits. Failure to comply with the conditions will lead to a return to secure imprisonment.

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b) Conventional (Non-Intermittent) Sentences

The second target group consists of offenders who have not been considered for intermittent sentences but instead have been sentenced to conventional sentences of no more than 90 days. This group is seen as consisting largely of persons convicted of drinking/driving offences and other offenders who meet the criteria for participation laid out later in this paper.

The initial identification of likely candidates in this category will occur during the correctional centre classification process. For those candidates accepted, after investigation, onto the program, Temporary Absence will be granted and the offender will be "outfitted" for program participation.

Specifics

Start Date and Duration

The start date for a pilot project will depend upon, amongst other things, the availability, acquisition and installation of equipment and the selection of staff. In order to provide sufficient lead time a start date of June 1, 1987 is proposed.

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In order to test in sufficient detail, a period of no less than 9 months or no more than 12 months is suggested. Since 9 months of actual usage should be adequate for assessment purposes, this time period is the preferred, cost-effective option.

Location

This project will be administered by Vancouver Region of the Corrections Branch. Within the Region the Vancouver Pretrial Services Centre is the preferred site for the following reasons:

a) it is located adjacent to the Vancouver Provincial Courts;

b) it has classification officers on-site and receives virtually all newly-sentenced offenders prior to onward transport;

c) there is available office space in the Probation Office on site; and

d) the computer can be located in the Central Control of the Pretrial Services Centre, where it can be subject to 24 hour monitoring.

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Staffing

At the outset (and perhaps for the duration of the project) two officers will be required to operate the project. Duties will include...

a) Introducing and explaining the project to the provincial court judiciary, crown counsel and defence bar in Vancouver.

b) Receiving and responding to requests for pre-sentence assessments of potential candidates awaiting sentence.

c) Explaining the program to and working with classification officers, temporary absence coordinators and other institutional staff to implement the project.

d) Investigating potential participants who were not subject to pre-sentence assessment for suitability to participate.

e) Processing newly-sentenced candidates onto the program, including installation of equipment upon the person of the offender, placing receivers in the residences of offenders, and making entries to the computer to activate each individual's program of supervision.

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f) Explaining the program to each candidate and ensuring his/her understanding, consent and cooperation with the program.

g) Monitoring computer print-outs and investigating circumstances which indicate violation of conditions.

h) Seeing offenders to monitor the condition of the transmitter and addressing any unintended and negative consequences which arise from participation.

i) Gathering data for the conduct of a full evaluation of the pilot project.

j) Representing and interpreting the project to the balance of the Justice System, the media and the community at large and throughout the Corrections Branch.

As noted earlier, the target groups for this project are offenders sentenced to intermittent prison sentences, and offenders sentenced to conventional prison sentences of no more than 90 days. Many of the potential participants will be serving 14 day sentences, which is the mandatory minimum prison sentence for persons convicted of a second offence under Sections 234, 235 & 236 of the Criminal Code, all of which refer to impaired driving. It is anticipated that the average sentence length for participants in the EMS

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project will fall in the range of 20 to 25 days. Using the shorter duration of 20 days and a supply of 25 transmitter/receiver units, as many as 337 offenders could participate during the term of the project. With an average sentence length of 25 days, 275 offenders could take part.

Due to this projected high turnover of offenders during the project, it is expected that two officers will be needed to manage the workload. If this is more than required, one officer can be returned to regular duties.

Target Groups

Lower Mainland Regional Correctional Centre (LMRCC) has, during the past year, admitted as many as 150 intermittently-sentenced inmates on weekends. With the pending phase-out of this centre, alternatives for managing these sentences must be found.

EMS may be a feasible alternative. EMS technology is cost-effective when used on a daily, on-going basis. Since the costs are constant and leased equipment must be paid for seven days a week, it is not cost-effective to use the equipment for weekends only. Consequently the use of conventional sentences in place of intermittent sentences will be a significant issue for establishing EMS as a feasible option.

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As noted earlier in this paper, the first proposed target group for this project is that group which commonly serves intermittent sentences. This group tends to be employed and is largely made up of impaired drivers serving mandatory prison sentences.

A critical component with respect to this target group is to enlist the participation of the courts. In instances where an intermittent sentence appears possible and indeed likely, the Corrections Branch will ask the judiciary in the Provincial Court to consider the imposition of a conventional, non-intermittent sentence.

During the full calendar year 1985, LMRCC housed an average of 105.5 inmates serving intermittent sentences on weekends. The highest weekend intermittent count was 139, while the lowest was 79.

Through the first 43 weeks of 1986, the average rose to 115.6, with a high of 150 and a low of 86 reported. (Through the first 43 weeks of 1985, LMRCC's average weekend intermittent count was 106.2. Therefore, through identical reporting periods, an average growth of 9.4 offenders or 8.8% was reported.)

A study of this population over a 4 month period in 1986 indicated that 31.4% of all admissions (86 offenders) received on intermittent sentences at LMRCC came from Vancouver City Courts. Other results indicated that 52% of

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admissions during the same period were for drinking and driving offences, with an additional 20.5% admitted on intermittent sentences for other driving offences.

Two surveys of the intermittent population at LMRCC indicated that, on average, 84% of the intermittent population is employed or attending an educational program during the non-custodial portion of their sentences.

The second target group consists of offenders who have not been under active consideration for intermittent sentences and who receive conventional sentences of no more than 90 days. (The experience in U.S. jurisdictions indicates that this is probably a maximum upward limit for program length. However, as the technology is new, no conclusive data is available on optimum duration of use).

Criteria for Program Participation

Proposed criteria for acceptance on the program include...

a) Offenders whose participation in this program will not cause public alarm, undermine the intent of sentence or otherwise bring the administration of justice into doubt in the community.

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b) Offenders whose current offence and previous convictions do not indicate to the courts or Corrections Branch that participation in the EMS program will endanger the public.

c) Offenders who are employed, have a realistic expectation of pending employment or who are participating in a full-time educational program (or some combination of two or more of these factors).

d) Offenders with a regular, bona fide residence with a telephone.

e) Offenders whose continued presence in their residence during all times other than for approved work, school or treatment program-related absences will not cause an undue hardship for families or other tenants of the residence.

f) Offenders who consent to participate in the program.

Equipment

At the time of writing, at least six firms have entered the market with Electronic Monitoring Systems. Of the known manufacturers, two are represented in Vancouver. Data Control Institute represents the products of Boulder Industries, a Colorado firm; Canadian Community Service Inc. is an extension of Corrections Services Inc., based in Florida.

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Both of these firms offer what is commonly referred to as "active" technology, meaning that the wearer of the transmitter is continually monitored while within the prescribed radius of the receiver/telephone. This differs from "passive" technology in which monitoring is achieved by a computer telephoning an offender and requiring him/her to insert the transmitter into a receiver "socket", thus allowing completion of the transmitted signal back to the central computer.

The only ready source of EMS equipment is the U.S. The products offered by the firms represented in Vancouver are similar in many respects and are produced by firms who have been active in this field for several years. The Corrections Branch intends to issue a formal "call for proposals" so that negotiations with these or other potential suppliers can commence.

The technology in this field is evolving rapidly. Consequently the Corrections Branch will, at the outset, look to leasing equipment rather than purchasing.

Legal Aspects

Statutory authority for the release of inmates on Temporary Absence is contained in Section 17 of the Correction Act (B.C.) and Section 8.01 of the Prisons & Reformatories Act. These sections provide for the placing of special conditions on those released and nothing in the legislation precludes the use of EMS in this context.

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The authority to grant Temporary Absences is provided by the legislation to correctional administrators. Consequently, while a judge may recommend the use of the EMS program, it is not a sentencing option in the traditional sense but is a means of facilitating Temporary Absence.

The proposal to test EMS has been considered in relation to the Charter of Rights and Freedoms. The Attorney General's Ministry views the proposed use of EMS as in keeping with the intent of the guarantees made through the Charter. It is important to note that offenders will participate in EMS only with their informed consent. As well, the technology does not intrude on the privacy of other occupants of an offender's residence. These factors limit the likelihood of a legal challenge to the use of EMS.

Any decision to grant, suspend or revoke a Temporary Absence program is subject to the duty of administrative fairness. As a consequence any offender faced with the loss of Temporary Absence privileges must be advised of the case against him or her and provided with the opportunity to make a full reply.

Response to Violations

As proposed by the Corrections Branch, the use of EMS will be linked to temporary absence. The target groups involve low risk offenders. For any offender who evades program responsibilities, a suspension of the T.A. permit and a concurrent return to institutional custody is within the Branch's

capacity. For any offender who compounds the violation of the T.A. permit by committing a new offence or who aggravates the violation in some other manner, a charge of Unlawfully at Large will be initiated together with any specific charges arising from the new offence.

It should be emphasized that all program participants will be screened thoroughly and must meet the criteria outlined earlier in this paper. The likelihood of violations is considered to be low.

Evaluation of the Project

Before any decisions regarding post-project use of EMS can be taken, the pilot project will have to be evaluated. As noted earlier in the paper, a number of objectives for the pilot project have been established. During the course of the project, data will be collected in relationship to each of those objectives. The results will be helpful in planning for future use of EMS technology.

In evaluating the project's results, the Corrections Branch will be seeking answers to a number of significant questions. To generalize, these questions will include;

- Has EMS had the expected effect as a strategy for protection of the public?

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- Is EMS a cost-effective alternative to imprisonment?

- Has EMS achieved a reasonable level of understanding and acceptance within the justice system and the community in general?

- Has EMS been effective in reducing correctional centre populations in the target groups?

The answers to these questions, along with the data developed during the pilot project, will be carefully considered before any decisions for future use are made.

Costs and Benefits

Short-Term

The field-test proposal calls for the use of 25 transmitter/receivers over a nine month project. As noted earlier the total number of offenders to be managed over the course of the project will depend upon, amongst other considerations, average sentence length. If the average sentence length is 20 days, as many as 337 offenders can be managed in the community by means of EMS. Preliminary discussions with suppliers indicate that the cost of required equipment on lease for the duration of the pilot project will be approximately $10/day.

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Beyond the cost of equipment, the only other significant cost is that of staff. Over the course of the project it is anticipated that 2.25 full time positions (F.T.E.s) and approximately $70,000 in salary will be dedicated to the project. Two probation officers and an administrative support person will operate the project.

The total project cost is approximately $140,000, consisting largely of equipment lease costs plus salaries. The project also has the potential to avoid the utilization of 6750 bed-days in correctional centres. The cost of a bed-day can vary significantly depending on the unit in which the bed is located, its population, the level of security and the general program associated with the unit. Due to the project's relatively small scale it will not result in the closing of any units during its life span but will, instead, remove some offenders from several units. Thus the directly attributable savings growing from the project are expressed here only in terms of the "marginal" cost of housing offenders which is approximately $10/day. If the use of EMS proves feasible for wider use and enables the subsequent closing of entire units, far greater cost savings are available in the future. The project is an investment which can lead to long-term cost savings for government.

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Long-Term

The costs of building and operating prisons are high. The maximum security Pretrial Services Centre in Vancouver, for instance, required an investment of over $20 million to provide 150 beds. High security is generally unnecessary for offenders serving intermittent sentences. However, even the most spartan of low security facilities would require an investment of several million dollars and the ongoing expense of a full staff complement to house offenders who are regarded by the courts as appropriate to remain in the community for 5 out of every 7 days.

Minimum security institutions are notably less expensive than are high security centres. Nonetheless, costs are significant, both in terms of initial capital outlay and recurring operational expenses. It has been estimated, for instance, that a low security, camp-style centre to house 150 offenders would require an initial capital expenditure in excess of $4 million dollars. In addition to start-up costs of approximately $500,000, such a centre would cost 1.73 million dollars to operate every year.

On the other hand, an Electronic Monitoring System for 150 offenders, operated through a long-term lease, has been estimated to cost the Corrections Branch approximately $200,000 a year. Staffing a long-term EMS capacity would require five officers. The entire EMS program could be delivered, including operational support, for approximately $400,000 per annum.

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Leaving aside the initial capital costs of a new institution to house offenders serving intermittent sentences, the contrast in costs is remarkable - a projected 1.73 million dollars for institutional housing compared with $400,000 for managing the same offender population through EMS.

Public Attitudes and Justice System Response

By 1991, Lower Mainland Regional Correctional Centre (Oakalla) will close as a prison. The Corrections Branch will be confronted by the need to manage a large and growing number of intermittent sentences. One option will be the use of EMS, a sanction which restricts the mobility of offenders and therefore protects the public while negating the need for a large capital expenditure along with significant ongoing operational expenses.

As noted previously, EMS is not a panacea but can be a useful tool for correctional administrators. In view of the pending phase-out of LMRCC, the opportunity to test the feasibility of EMS is very timely.

Some can be expected to object to the impersonal electronic presence of EMS and raise fears about government intrusion into offenders' lives. However, EMS is proposed only as an alternative to prison, a far more intrusive option. Others may see this as an inadequate response to crime, a softening of society's need to denounce criminal behaviour. People with this concern will have their fears eased when reminded that the primary target group for EMS is already in the community for much of their sentence. In

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fact this sanction may be seen as more stringent in that these offenders will be managed on a daily basis rather than just weekends. EMS relieves the community of the expense of prisons while enforcing sanctions upon offenders whose criminal behaviour requires the community's denunciation.

EMS is new and the public's concerns and curiosity are understandable. In order to ensure that this project hears and takes into consideration the questions and ideas that will occur, the Corrections Branch will establish an "Advisory Committee" to observe and comment upon both the conduct of the project and the development of post-project policy and implementation strategy. Drawn from both government and non-government sources, the Advisory Committee will serve to ensure that the use of EMS meets the needs of the community as well as the goals of the Justice System. Government agencies such as this Ministry's Criminal Justice, Court Services and Police Services Branches, the federal Solicitor General's Ministry and non-government groups such as Mothers Against Drunk Drivers (MADD), the John Howard Society, the Elizabeth Fry Society, B.C. Civil Liberties Association and various victims' rights organizations will be invited to observe and comment upon this initiative. Through this Advisory Committee the community's views can inform this initiative in a very direct and real way.